

REMARKS

Claims 3, 7-10, 29-41, 44, 46-47, 49-50, 52, 53 and 56 remain in this application with Claims 7-10, 29, 38, 44, 46 and 47 having been amended; Claims 14 and 28 have been cancelled to expedite the prosecution of this application; Claims 1-2, 4-6, 11-13, 15-27, 37, 42-43, 45, 48, 51, and 54-55 were cancelled previously.

Applicants hereby acknowledge, with appreciation, the indication that Claims 3, 33-36, 49-50 and 52-56 are allowable.

The Examiner rejected Claims 7-10, 29-32, 37-41, 44, 46 and 47 under 35 U.S.C. §112, second paragraph as being indefinite, i.e., the steps of Claims 7-10 do not appear to be directly related to the method of reducing endothelial cell dysfunction. Furthermore, the Examiner asserts that (1) the disclosed structure of Claims 37-41 alone could not automatically determine the surface tension of the circulating blood; (2) the plurality of tubes of Claim 44 is not related to the determination of red blood cell deformability; (3) the disclosed structure of Claim 46 is not sufficient to determine red blood cell deformability; and (4) the deformability of the red blood cells cited in Claim 47 is not related to the color determination or tubular structure.

The Examiner objected to Claims 7-10, 29-32, 37-41, 44 and 46-47 as being allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, second paragraph. To that end, Applicants have amended these claims accordingly and respectfully request that the §112, second paragraph rejection of these claims be withdrawn.

Per a telephone conference between the Examiner and the undersigned on January 22, 2003, the Examiner requested copies of the articles ("printed publications") and the WO publications (copies of which are attached as Exhibit A) already made of record in earlier submitted information disclosure statements for her consideration. She indicated that she did not receive copies of these articles/WO publications. Enclosed herewith as Exhibit B are copies of the earlier filed Information Disclosure Statements, including PTO Forms 1449 forms filed in this case listing these articles and WO publications, along with a copy of the return receipt post card. Applicants respectfully submit that copies of all of these references were submitted with the Information Disclosure Statements in a timely manner as evidenced by the return receipt post card and therefore no fee is due. However, if it is deemed that such a fee is due, the PTO is authorized to debit account no. 03-0075 accordingly.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned **"Version with markings to show changes made."**

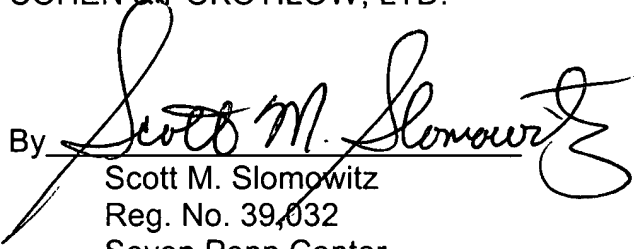
In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 3, 7-10, 29-41, 44, 46-47, 49-50, 52, 53 and 56 now appearing in this application are allowable and such favorable action is respectfully requested. The Examiner is encouraged to contact the undersigned by telephone if it is believed that further discussion may lead to an early allowance of the claims.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

March 12, 2003

By

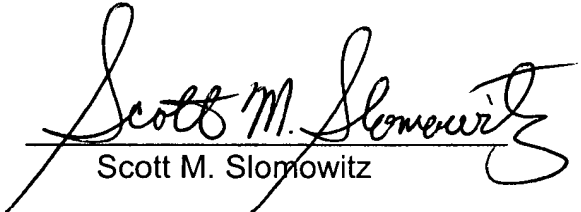


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Attorneys for Applicants



CERTIFICATE OF MAILING

I hereby certify that the foregoing AMENDMENT and accompanying EXHIBITS A-B re Application Serial No. 09/628,401 is being deposited with the United States Postal Services as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, BOX NON-FEE AMENDMENT, Washington, D.C. 20231 on this 12th day of March, 2003.


Scott M. Slomowitz

Version with Markings to Show Changes Made

IN THE CLAIMS:

Please amend Claim 7 as follows:

7. (Twice Amended) A method for reducing endothelial cell dysfunction in a living being which is caused by the oscillating flow of the circulating blood of the living being, said method comprising the step of administering a β -blocker to the living being for reducing the rate of ejection of the blood from the heart of the living being which reduces the magnitude of the oscillating flow of the circulating blood that causes endothelial cell dysfunction [and wherein said step of reducing the rate of ejection of the blood from the heart comprises administering a β -blocker to the living being].

Please amend Claim 8 as follows:

8. (Twice Amended) A method for reducing endothelial cell dysfunction in a living being which is caused by the oscillating flow of the circulating blood of the living being, said method comprising the step of minimizing or eliminating smoking by the living being for reducing the rate of ejection of the blood from the heart of the living being which reduces the magnitude of the oscillating flow of the circulating blood that causes endothelial cell dysfunction [and wherein said step of reducing the rate of ejection of the blood from the heart comprises minimizing or eliminating smoking by the living being].

Please amend Claim 9 as follows:

9. (Twice Amended) A method for reducing endothelial cell dysfunction in a living being which is caused by the oscillating flow of the circulating blood of the living being, said

method comprising the step of minimizing or eliminating the ingestion of caffeine by the living being for reducing the rate of ejection of the blood from the heart of the living being which reduces the magnitude of the oscillating flow of the circulating blood that causes endothelial cell dysfunction [and wherein said step of reducing the rate of ejection of the blood from the heart comprises minimizing or eliminating the ingestion of caffeine by the living being].

Please amend Claim 10 as follows:

10. (Twice Amended) A method for reducing endothelial cell dysfunction in a living being which is caused by the oscillating flow of the circulating blood of the living being, said method comprising the step of ingesting of alcohol by the living being for reducing the rate of ejection of the blood from the heart of the living being which reduces the magnitude of the oscillating flow of the circulating blood that causes endothelial cell dysfunction [and wherein said step of reducing the rate of ejection of the blood from the heart comprises ingesting of alcohol by the living being].

Please cancel Claim 14.

Please cancel Claim 28.

Please amend Claim 29 as follows:

29. (Amended) A method for estimating blood vessel wall shear stress in high and low shear areas of a blood vessel bifurcation of a living being by correlating a blood viscosity parameter with a blood pressure parameter, said method comprising

[The method of Claim 28 wherein said step of correlating a blood viscosity parameter with a blood pressure parameter comprises] the steps of:

(a) determining a first viscosity profile of the circulating blood of the living being over a plurality of shear rates and a second viscosity profile of the circulating blood of a healthy living being over said plurality of shear rates for use as a reference;

(b) defining a blood viscosity parameter that comprises:

(1) a high shear rate blood viscosity component based on high shear rate blood viscosity values from said first and second viscosity profiles;

(2) a low shear blood viscosity component based on low shear rate blood viscosity values from said first and second viscosity profiles; and

(3) a component representing the thrombotic tendency of the blood;

(c) defining a blood pressure parameter that comprises:

(1) an average blood pressure term; and

(2) a rate of ejection of blood from the heart of the living being; and

(d) providing a matrix having a plurality of said blood viscosity parameters along a first axis of said matrix and a plurality of said blood pressure parameters along a second orthogonal axis and wherein the intersection of any one of said plurality of said blood viscosity parameters

and any one of said plurality of said blood pressure parameters specifies a particular high wall shear stress and low wall shear stress.

Please cancel Claim 37.

Please amend Claim 38 as follows:

38. (Amended) An apparatus for automatically determining the surface tension of the circulating blood of a living being, said apparatus comprising:

a blood column height determinator based on capillary rise; and

[The apparatus of Claim 37] wherein said column height determinator comprises:

a lumen having a first end vented to atmosphere and a second end coupled to one port of a valve, said valve having a second port coupled to a source of circulating blood of the living being;

a reservoir, vented to atmosphere, having an input coupled to a third port of said valve;

a detector for monitoring a fluid level in said lumen; and

wherein said valve is first operated to direct the circulating blood into said lumen to form a column of blood and wherein said valve is then operated to isolate said circulating blood from said lumen while coupling said lumen and said reservoir in fluid communication to form a falling column of blood in said lumen, said detector detecting the final position of said falling column of blood.

Please amend Claim 44 as follows:

44. (Amended) An apparatus for collecting [determining the deformability of] red blood cells of the circulating blood of a living being, said apparatus comprising a plurality of tubes closely adjacent one another and each having an inner diameter different from its neighbor, each of said plurality of tubes having an opening exposed to a flow of circulating blood and each of said tubes being closed at its other end for collecting red blood cells therein, each of said blood cells entering one of said plurality of tubes according to each blood cell's ability to deform.

Please amend Claim 46 as follows:

46. (Twice Amended) An apparatus for collecting [determining the deformability of] red blood cells of the circulating blood of a living being, said apparatus comprising a plurality of tubes closely adjacent one another and each having an inner diameter different from its neighbor, each of said plurality of tubes having an opening exposed to a flow of circulating blood and each of said tubes being closed at its other end for collecting red blood cells therein, each of said blood cells entering one of said plurality of tubes according to each blood cell's ability to deform and wherein the inner diameters of said plurality of tubes is within the range of 1 μ m to 10 μ m.

Please amend Claim 47 as follows:

47. (Twice Amended) An apparatus for collecting [determining the deformability of] red blood cells of the circulating blood of a living being, said apparatus comprising:
a plurality of tubes closely adjacent one another and each having an inner diameter different from its neighbor, each of said plurality of tubes having an opening exposed to a flow of circulating blood and each of said

tubes being closed at its other end for collecting red blood cells therein, each of said blood cells entering one of said plurality of tubes according to each blood cell's ability to deform;

an illuminator for passing light through each one of the plurality of tubes as they collect red blood cells in accordance with their respective inner diameters and wherein respective light rays, of varying degrees of redness corresponding to the amount of red blood cells collected in each of said plurality of tubes, emerge from said plurality of tubes; and

a redness color detector for detecting the degree of redness of each of said emerging light rays corresponding to each of said plurality of tubes.



#16

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

Applicants: Kenneth Kensey, et al.

Serial No: 09/628,401

Group Art Unit: 3737

Filed: August 1, 2000

Examiner: K. White

Att. Docket No.: V1025/20044

Customer No. 03000

For: APPARATUS & METHODS FOR COMPREHENSIVE BLOOD ANALYSIS,
INCLUDING WORK OF A CONTRACTILITY OF HEART AND THERAPEUTIC
APPLICATIONS AND COMPOSITION THEREOF

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
Washington, DC 20231

Sir:

Pursuant to 37 CFR §1.56, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO-1449. Unless otherwise indicated herein, one copy of each of the references is attached. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom. No representation is made that the references are prior art with respect to this application.

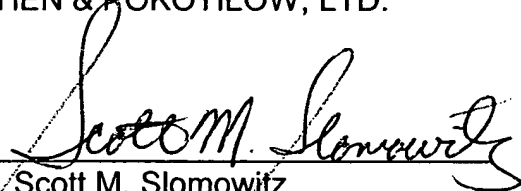
This Information Disclosure Statement is being filed after the period specified in 37 CFR § 1.97(b), but before the mailing date of any of a final action under 37 CFR § 1.113, a Notice of Allowance under 37 CFR § 1.311 or an action that otherwise closes prosecution in the application. Accordingly, I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office(International Search Reports PCT/US01/03907 and PCT/US01/23696) in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. Accordingly, no fee is due. 37 CFR § 1.97(c)(1) and (e)(1).

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & ROKOTILOW, LTD.

March 7, 2002

By


Scott M. Slomowitz
Registration No. 39,032
Customer No. 03000
(215) 567-2010
Attorney for Applicants

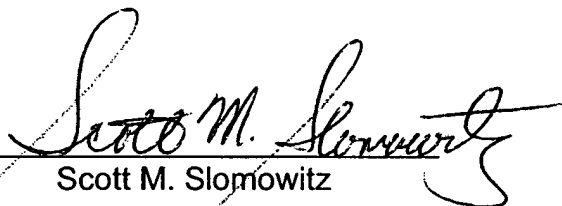
Please charge or credit our
Account No. 03-0075 as
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of this submission.



Application No. 09/628,401

CERTIFICATE OF MAILING

I hereby certify that the foregoing Supplemental Information Disclosure Statement and PTO Form 1449 listing the reference and a copy of the references re Application Serial No. 09/628,401 are being deposited with the United States Postal services as First Class Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Washington, DC, 20231 on March 7, 2002.


Scott M. Slomowitz

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PTO/SB/O8A (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
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Substitute for Form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheet as necessary)

Complete if Known

Application Number	09/628,401
Filing Date	August 1, 2000
First Named Inventor	Kenneth Kensey
Group Art Unit	3737
Examiner Name	K. White
Attorney Docket Number	V1025/20044
Customer No.	03000

Sheet 1 of 1

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code (if known)		
		5,066,859		Karkar, et al.	11/19/1991

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	T
		Office	Number	Kind Code (if known)			
			WO 01/36936		Kensey, et al.	5/25/2001	
			WO 99/10724		Kensey, et al.	3/04/1999	
			DE 3138514		Myrenne, et al.	4/14/1983	T
			2 510 257		Boyer, et al.	1/28/1982	T

OTHER DOCUMENTS - NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T
		International Search Report No. PCT/US01/03907 - Received 2/22/2002	
		International Search Report No. PCT/US01/23696 - Received 2/25/2002	

EXAMINER

DATE CONSIDERED

*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



App: Kensey, et al.

ASN: 09/628,401

for: APPARATUS AND METHODS FOR COMPREHENSIVE BLOOD ANALYSIS,
INCLUDING WORK OF A CONTRACTILITY OF HEART AND
THERAPEUTIC APPLICATIONS AND COMPOSITION THEREOF

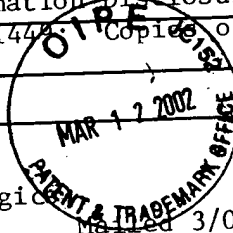
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List of references on PTO Form 1449. Copies of references

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App: Kenneth Kensey, et al.

ASN: 09/628,401

fpr" APPARATUS & METHODS FOR COMPREHENSIVE BLOOD ANALYSIS
INCLUDING WORK OF AND CONTRACTILITY OF HEART AND
THERAPEUTIC APPLICATIONS AND COMPOSITIONS THEREOF

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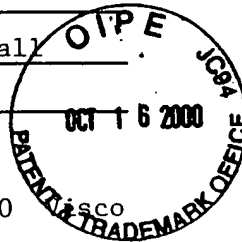
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PATENT
V1025/20044

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

Applicant : Kenneth Kensey, William N. Hogenauer,
and Young Cho

Serial No. : 09/628,401

Filed : August 1, 2000

For : APPARATUS AND METHODS FOR
COMPREHENSIVE BLOOD ANALYSIS,
INCLUDING WORK OF, AND CONTRACTILITY
OF, HEART AND THERAPEUTIC
APPLICATIONS AND COMPOSITIONS
THEREOF

INFORMATION DISCLOSURE STATEMENT PURSUANT TO 37 CFR 1.97 (b) (1)

Commissioner for Patents
Washington, D.C. 20231

Sir:

This Information Disclosure Statement is being filed pursuant to 37 CFR 1.97 (b) (1).

The present application is a Continuation-in-Part of ASN 09/501,856, which is based on ASN 08/919,906, which is now U.S. Patent No. 6,019,735.

Applicant now wishes to make of record all references listed in the above US patent and patent application. The relevance of several of these references are identified in the background of the invention of the present application. None of these references are not believed to anticipate nor render obvious the subject matter of the present application.

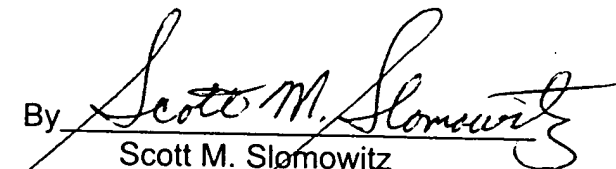
This Information Disclosure Statement is being filed within three months of the filing date of this application.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

October 11, 2000

By



Scott M. Slomowitz

Reg. No. 39,032

12th Floor, Seven Penn Center

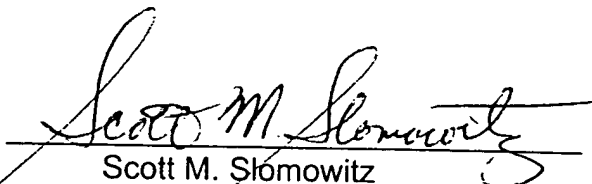
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Philadelphia, PA 19103-2212

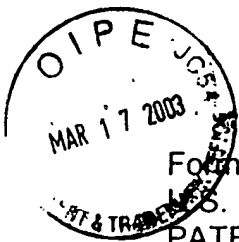
(215) 567-2010

CERTIFICATE OF MAILING

I hereby certify that the foregoing INFORMATION DISCLOSURE STATEMENT PURSUANT TO 37 CFR 1.97 (b) (1) re application Serial No. 09/628,401, PTO form 1449 listing references and attached references are being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, this 11th day of October, 2000.



Scott M. Slomowitz



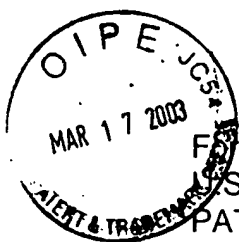
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Sheet 1 of 10

Applicant : Kenneth Kensey, et al.
Serial No. : 09/628,401
Filing Date : August 1, 2000

LIST OF REFERENCES CITED BY APPLICANT

Examiner Initials	Document No.	Issue Date	Name	Class
AA	1,810,992	6/23/31	Dallwitz-Wegner	
AB	2,343,061	2/29/44	Irany	265
AC	2,696,734	12/14/54	Brunstrum, et al.	73
AD	2,700,891	2/01/55	Shafer	73
AE	2,934,944	5/03/60	Eolkin	73
AF	3,071,961	1/08/63	Heigl, et al.	73
AG	3,116,630	1/07/64	Piros	73
AH	3,137,161	6/16/64	Lewis, et al.	73
AI	3,138,950	6/30/64	Welty, et al.	73
AJ	3,277,694	10/11/66	Cannon, et al.	73
AK	3,286,511	11/22/66	Harkness	73
AL	3,342,063	9/19/67	Smythe, et al.	73
AM	3,435,665	4/01/69	Tzentis	73
AN	3,520,179	7/14/70	Reed	73



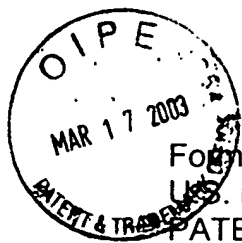
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Applicant : Kenneth Kensey, et al.
Serial No. : 09/628,401
Filing Date : August 1, 2000

LIST OF REFERENCES CITED BY APPLICANT

Examiner Initials	Document No.	Issue Date	Name	Class
AO	3,604,247	9/14/71	Gramain, et al.	73
AP	3,666,999	5/30/72	Moreland, Jr. et al.	317
AQ	3,680,362	8/01/72	Geerdes, et al.	73
AR	3,699,804	10/24/72	Gassmann, et al.	73
AS	3,713,328	1/30/73	Aritomi	73
AT	3,720,097	3/13/73	Kron	73
AU	3,782,173	1/01/74	Van Vessem, et al.	73
AV	3,839,901	10/08/74	Finkle, et al.	73
AV1	3,853,121	12/10/74	Mizrachy, et al.	128
AW	3,864,962	2/11/75	Stark, et al.	73
AX	3,908,441	9/30/75	Virloget	73
AY	3,911,728	10/14/75	Fixot	73
AZ	3,952,577	4/27/76	Hayes, et al.	73
AAA	3,967,934	7/06/76	Seitz, et al.	23
AAB	3,990,295	11/09/76	Renovanz, et al.	73
AAC	3,999,538	12/28/76	Philpot, Jr.	128



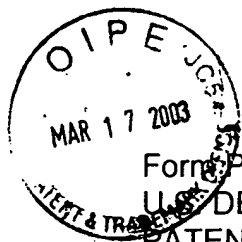
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Sheet 3 of 10

Applicant : Kenneth Kensey, et al.
Serial No. : 09/628,401
Filing Date : August 1, 2000

U. S. PATENTS

Examiner Initials	Document No.	Issue Date	Name	Class
AAC1	B1-3,999,538 (Re-Exam Cert)	7/24/84	Philpot, Jr.	128
AAD	4,083,363	4/11/78	Philpot, Jr.	128
AAE	4,149,405	4/17/79	Ringrose	73
AAF	4,165,632	8/28/79	Weber, et al.	73
AAG	4,193,293	3/18/80	Cavallari	73
AAH	4,207,870	6/17/80	Eldridge	128
AAI	4,302,965	12/01/81	Johnson, et al.	73
AAJ	4,341,111	7/27/82	Husar	73
AAK	4,417,584	11/29/83	Cathignol, et al.	128
AAL	4,426,878	1/24/84	Price, et al.	73
AAM	4,432,761	2/21/84	Dawe	604
AAM1	4,461,830	7/24/84	Philpot, Jr.	435
AAN	4,517,830	5/21/85	Gunn, Deceased, et al.	73
AAO	4,519,239	5/28/85	Kiesewetter, et al.	73
AAP	4,554,821	11/26/85	Kiesewetter, et al.	73
AAP1	4,616,503	10/14/86	Plungis, et al.	73



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Sheet 4 of 10

Applicant : Kenneth Kensey, et al.
Serial No. : 09/628,401
Filing Date : August 1, 2000

U. S. PATENTS

Examiner Initials	Document No.	Issue Date	Name	Class
AAQ	4,637,250	1/20/87	Irvine, Jr., et al.	73
AAQ1	4,643,021	2/17/87	Mattout	73
AAR	4,680,957	7/21/87	Dodd	73
AAS	4,680,958	7/21/87	Ruelle, et al.	73
AAT	4,750,351	6/14/88	Ball	73
AAU	4,856,322	8/15/89	Langrick, et al.	73
AAV	4,858,127	8/15/89	Kron, et al.	364
AAW	4,884,577	12/05/89	Merrill	128
AAX	4,899,575	2/13/90	Chu, et al.	73
AAY	4,947,678	8/14/90	Hori, et al.	73
AAZ	5,099,698	3/31/92	Kath, et al.	73
ABA	5,142,899	9/01/92	Park, et al.	73
ABB	5,181,415	1/26/93	Esvan, et al.	73
ABC	5,222,497	6/29/93	Ono	128
ABD	5,224,375	7/06/93	You, et al.	73
ABE	5,257,529	11/02/93	Taniguchi, et al.	73
ABF	5,271,398	12/21/93	Schlain, et al.	128



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PATENT AND TRADEMARK OFFICE

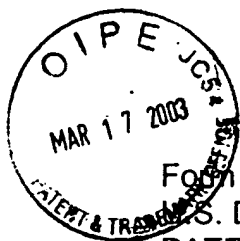
Sheet 5 of 10

Applicant : Kenneth Kensey, et al.
Serial No. : 09/628,401
Filing Date : August 1, 2000

U. S. PATENTS

Examiner Initials	Document No.	Issue Date	Name	Class
ABG	5,272,912	12/28/93	Katsuzaki	73
ABH	5,327,778	7/12/94	Park	73
ABI	5,333,497	8/02/94	Br nd Dag A. et al.	73
ABJ	5,365,776	11/22/94	Lehmann, et al.	73
ABK	5,421,328	6/06/95	Bedingham	178
ABK1	5,443,078	8/22/95	Uflacker	128
ABL	5,447,440	9/05/95	Davis, et al.	435
ABM	5,491,408	2/13/96	Rousseau	324
ABN	5,494,639	2/27/96	Grzegorzewski	422
ABO	5,549,119	8/27/96	Solar	128
ABP	5,629,209	5/13/97	Braun, Sr., et al.	436
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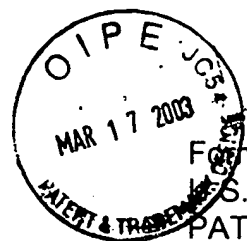
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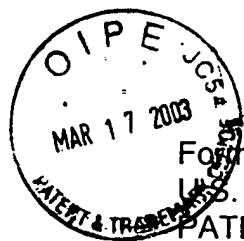
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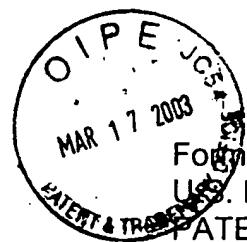
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